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09/684,472	10/06/2000	Suban Krishnamoorthy	200308343-1	4021

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HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

LEE, PHILIP C

ART UNIT	PAPER NUMBER
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2452

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: SUBAN KRISHNAMOORTHY, CHRISTOPHER
STROBERGER, and STEVEN PETERS

Application No. 09/684,472
Technology Center 2100

Mailed: 16 December 2008

Before LAWRENCE J. BANKS *Paralegal Specialist*
BANKS, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 24, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed September 29, 2006, under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 18-28, 30 and 31 are rejected under U.S.C. § 103(a) as being unpatentable over Mann, U.S. 6,654,801. Claim 29 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mann in view of Singh, U.S. 5,758,083. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mann in view of Tawil, U.S. 6,421,723. Claims 33-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mann in view of Chrabaszcz, U.S. 6,212,585; whereas Appellant(s) did not list the rejections of claims 29, 32, and 33-35. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

EXAMINER’S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER’S ANSWER. The examiner’s answer is required to include, under appropriate headings, in the order indicated, the following items:

....

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed October 6, 2006, is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Singh U.S. 5,758,083, Tawil U.S. 6,421,723, and Chrabaszcz U.S. 6,212,585, cited on page(s) 3-10 in the Examiner's Answer's grounds of rejection of 29, 32, and 33-35 under 35 USC § 103(a).

Appropriate correction is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on September 29, 2006, defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims;
- 3) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 4) for such further action as may be required.

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